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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
159,549	06/16/80	Richard J. Wurtman, et al.	M.I.T. 3405

Arthur A. Smith, Jr.
M.I.T.-Room E19-722
Cambridge, MA 02139

EXAMINER	
Caccipaglia	
ART UNIT	PAPER NUMBER
125	2

DATE MAILED:

MAILED

This is a communication from the examiner in charge of your application.

COMMISSIONER OF PATENTS AND TRADEMARKS

SEP 17 1980

☒ This application has been examined. ☐ Responsive to communication filed on _____ ☐ This action is made final.

GROUP 120

A shortened statutory period for response to this action is set to expire 3 month(s), _____ days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- ☒ Notice of References Cited, Form PTO-892.
- ☐ Notice of Informal Patent Drawing, PTO-948.
- ☐ Notice of Informal Patent Application, Form PTO-152.
- ☐ _____

Part II SUMMARY OF ACTION

- ☒ Claims 1-6 are pending in the application.
Of the above, claims _____ are withdrawn from consideration.
- ☐ Claims _____ have been cancelled.
- ☐ Claims _____ are allowed.
- ☒ Claims 1-6 are rejected.
- ☐ Claims _____ are objected to.
- ☐ Claims _____ are subject to restriction or election requirement.
- ☐ The formal drawings filed on _____ are acceptable.
- ☐ The drawing correction request filed on _____ has been ☐ approved. ☐ disapproved.
- ☐ Acknowledgment is made of the claim for priority under 35 U.S.C. 119. The certified copy has
☐ been received. ☐ not been received. ☐ been filed in parent application, serial no. _____
filed on _____.
- ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
- ☐ Other

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PART III(a)

SERIAL
NUMBER

159549

GROUP ART UNIT
125

NOTIFICATION OF REJECTION(S) AND/OR OBJECTION(S) (35 USC 132)

	CLAIMS (1)	REASONS FOR REJECTION (2)	REFERENCES * (3)	INFORMATION IDENTIFICATION AND COMMENTS (4)
1	1-6	35 USC 112 1st par	R	nomenclature for d-fenfluramine in the spec. & cl. is questioned in failure to recite ethylamino moiety. See R. Explanation (see par 5)
2	1-6	35 USC 112 2nd par		Cl 1 is indefinite in the inclusion of inappropriate composition terminology "per day." A composition should recite a specific amount (see par 6)
3	1-6	35 USC 103 1103	A	The reference teaches adm of applicant's compositions for anorectic effect. Composition cls 1-4 are fully met, (see pg 3, par 5)
4	1-6	35 USC 102/ 103	S, T & U alone & v A	The admitted prior art, pg 2, spec. indicates that the fluoramines have been tried to selectively reduce carbohydrate (see pg 4, par 5)

- 5 or correction is in order. "salt", cl 1, is broader than enabling disclosure. "dextroxy", cl 2, is an apparent error. Ambiguity is introduced because it cannot be determined with certainty whether "d, 1", pg 2, line 21 and "d-1", pg 9, lines 16, 26 mean "d-one" or a racemate and pg 9, lines 9, 17, 29, "1-fenfluramine" means "one" or "laevorotatory." Clarification is in order. Pg 3, line 3, "d-isomer" is apparently in error.
- 6 per unit dosage form. Cls 5, 6 are indefinite in failure to recite a specific therapeutic (see pg 3, par 5)

* Capital letters representing references are identified on accompanying Form PTO-892
The symbol "v" between letters represents - in view of -
The symbol "+" or "&" between letters represents - and -
A slash "/" between letters represents the alternative - or -

NOTE: Sections 100, 101, 102, 103, and 112 of the Patent Statute (Title 35 of the United States Code) are reproduced on the back of this sheet.

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PART III (a)

SERIAL
NUMBER 157549GROUP ART UNIT
125

NOTIFICATION OF REJECTION(S) AND/OR OBJECTION(S) (35 USC 132)

	CLAIMS (1)	REASONS FOR REJECTION (2)	REFERENCES * (3)	INFORMATION IDENTIFICATION AND COMMENTS (4)
1				
2				
3				
4				

- 5 condition as well as requisite method parameters (e.g., route and timing of adm., dose and frequency). Cl 4 fails to differ in scope from Cl 1; Cl 6 from Cl 5.
- 6 the recitation of intended use being of no patentable import. The method, Cls 5, 6, is fairly anticipated, or at least rendered obvious. Inherently, the same effect herein urged, was obtained in A. The animal test results, moreover, do not show any unexpected effect relative to between-meal carbohydrate craving in humans. At most, tests show enhanced protein-rich food intake in rats.

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15

PART III

SERIAL
NUMBER

GROUP ART UNIT

NOTIFICATION OF REJECTION(S) AND/OR OBJECTION(S) (35 USC 132)

	CLAIMS (1)	REASONS FOR REJECTION (2)	REFERENCES * (3)	INFORMATION IDENTIFICATION AND COMMENTS (4)
1				
2				
3				
4				

5 consumption thus fairly meeting the claims herein. The animal showings, of record, fail to establish unexpected results. Moreover, A teaches enhanced bio-activity of the d-isomer and it would not be unexpected to demonstrate superiority for applicant's use. (Applicants are requested to file copies of the references cited on page 2 to complete the record.)

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